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Dear City/Town Clerk:

In recent weeks, the Office of the Attorney General has received multiple inquiries regarding the appropriate manner to conduct charitable gaming including poker tournaments under G. L. c. 271, §7A and 940 CMR 13.00 *et seq.* This letter provides guidance to municipalities on the questions that the Office has received. In addition, we attach the 2005 Advisory on Poker Tournaments and the Checklist for a Municipality Issuing a Poker Tournament Permit, which provides further guidance.

While charitable gaming is available as an option for certain organizations to raise funds, there are significant limitations on which organizations may conduct these events, how often they can occur, and the operation of these events. Pursuant to G. L. c. 271, §7A, organizations must receive a permit from the municipality where the event will occur before undertaking this gaming. Likewise, a municipality “shall immediately revoke the [permit] for a violation of any provision” of G. L. c. 271, §7A.

Charitable gaming can only be conducted by the following types of non-profit organizations: (a) veterans’ organizations; (b) church or religious organizations; (c) fraternal benefit societies; (d) educational or charitable organizations; (e) civic or service clubs; and (f) clubs or organizations organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any member or shareholders. Only organizations that have been organized and actively functioning as a nonprofit organization in the Commonwealth for a period of two years before may apply for a permit and organizations may only hold three events per calendar year. Charitable gaming events can only last for five hours.

There are strict rules about how qualifying organizations must manage charitable gaming. The organization must appoint a member in charge who is responsible for all of the charitable gaming activities and the filing of all financial reports. The member in charge must be present during the gaming and be familiar with all laws and regulations pertaining to the event. The organization must also designate one of its officers (different from the member in charge) to be responsible for all of the proceeds.

Likewise, there are strict prohibitions on the non-profit organization outsourcing any of the operation of charitable gaming. The operation of the charitable gaming “shall be confined solely to the qualified members of the sponsoring organization and no such member shall receive remuneration in any form for

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time or effort devoted to the promotion or operation of” the gaming. G. L. c. 271, §7A. Only members of the organization can serve as dealers or game managers and these individuals cannot be paid for their services. Similarly, only members of the organization can participate in the event’s promotion and operation.

Another important element in the regulation of charitable gaming is the limitation on cash awards. Charitable gaming is limited to “one or both of the following types of prizes: (1) merchandise, of any value, (2) cash awards, not to exceed twenty-five dollars each.” Merchandise (including gift cards) and cash awards may be awarded to one or more winners at the end of the entire event, at the end of any game, or at such other times and in such other manner during the event as the organization chooses, so long as the prizes have been determined in advance and do not increase or decrease based on the number of people playing, the amount of proceeds collected, or the outcome of the games being played. Gift cards that are redeemable for merchandise only can be of any value. Gift cards that can be redeemed for cash are subject to the \$25.00 statutory limitation.

There are other restrictions on charitable gaming in G. L. c. 271, §7A and 940 CMR 13.00 *et seq.* We urge municipalities to review the law, regulation and the various guidance documents on the Attorney General’s website at www.mass.gov/ago/charities.

Finally, municipalities should carefully review permit applications. The attached Checklist for a Municipality Issuing a Poker Tournament Permit provides a useful guide for municipalities. As noted above, municipalities are authorized to revoke permits where there has been a material change in information included on a permit that disqualifies the applicant or where a municipality identifies a violation of Massachusetts statutes or regulation.

The Attorney General’s Office looks forward to working with municipalities to ensure compliance with the Commonwealth’s charitable gaming laws. Please do not hesitate to call me if you have any questions about this or any other matter.

Sincerely,



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Chief, Business and Labor Bureau
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Cc: Police Chief